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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 KEOVILAYVANH
14 RINTHALUKAY,

15 Defendant.

CASE NO. CR23-0013JLR

ORDER

16 Before the court is Defendant Keovilayvanh Rinthalukay's motion to continue the
17 sentencing hearing date in this matter. (Mot. (Dkt. # 15); Reply (Dkt. # 17).) Plaintiff
18 the United States of America (the "Government") opposes the motion. (Resp. (Dkt.
19 # 16).) The court has considered the motion, all submissions filed in support of and
20 opposition to the motion, the relevant portions of the record, and the applicable law.
21 Being fully advised, the court DENIES Mr. Rinthalukay's motion.

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1 Mr. Rinthalukay pleaded guilty to one count of willful failure to pay over tax in
2 violation of 26 U.S.C. § 7202 in February 2023 (*see* Plea Agreement (Dkt. # 9); Order
3 Accepting Plea (Dkt. # 14)), and is scheduled to be sentenced before this court on May 2,
4 2023 (2/2/23 Min. Entry (Dkt. # 7)). In the instant motion, Mr. Rinthalukay asks the
5 court to continue the sentencing hearing until October or November 2023, “to provide
6 him with sufficient time: (1) to have surgery on his cervical spine to address progressive
7 stenosis, which is causing significant compression of his spinal cord and presents
8 substantial risk of paralysis and essential internal body function deficiency if not
9 addressed soon; and (2) to engage in some level of early-stage rehabilitation and physical
10 therapy.” (Mot. at 1; *see also* Reply.) The Government argues that Mr. Rinthalukay “has
11 not identified a reason for the Court to delay sentencing in his case under [Federal Rule
12 of Criminal Procedure] 32.” (Resp. at 2.)

13 Federal Rule of Criminal Procedure 32 provides that district courts “must impose
14 sentence without unnecessary delay,” and allows the court to “for good cause, change any
15 time limits prescribed in this rule.” Fed. R. Crim. P. 32(b)(1). Here, the court concludes
16 that Mr. Rinthalukay has not shown good cause for a five-to-six-month continuance of
17 his sentencing hearing. *See id.* Mr. Rinthalukay has known about his spinal condition
18 and the need for surgery since “sometime around 2017.” (Mot. at 2; Rinthalukay Decl.
19 (Dkt. # 15-1) ¶ 4.) Moreover, due to the “severe and persistent pain” his condition had
20 allegedly caused him to experience, he obtained an MRI on his spine in July 2021, which
21 again confirmed the need for surgery. (Mot. at 2; Rinthalukay Decl. ¶ 5; Shawky Decl.
22 (Dkt. # 15-2) ¶¶ 5-9, Ex. A.) Although the court understands that the COVID-19

1 pandemic delayed elective surgeries for many patients and made visits to doctors' offices
2 risky (Reply at 1-2), Mr. Rinthalukay does not offer a sufficient explanation as to why he
3 did not seek surgery as soon as practically possible following his 2021 MRI. (*See*
4 Shawky Decl. ¶¶ 9-11 (implying that no surgery has been scheduled to date); Mot. at 4
5 (same).) Additionally, although the court acknowledges Mr. Rinthalukay's statements
6 regarding the severe pain he is experiencing (*see* Rinthalukay Decl. ¶¶ 6-9), based on the
7 evidence submitted, the court is not persuaded by Mr. Rinthalukay's argument that he
8 and his counsel will be substantially prejudiced in the absence of a continuance because
9 of the impact his condition will have on his ability to prepare for sentencing.

10 Finally, as the Government notes in its response, "[a]t the sentencing hearing in
11 May, assuming the [c]ourt decides to impose imprisonment, it can consider a suitable
12 date for [Mr.] Rinthalukay to report to the Bureau of Prisons in light of his health needs."
13 (Resp. at 3.) At that time, Mr. Rinthalukay may raise arguments regarding the
14 appropriate reporting date, if applicable, in light of his medical condition. Moreover, the
15 May 2, 2023 sentencing date does not prevent Mr. Rinthalukay from obtaining any
16 necessary medical care in the interim.

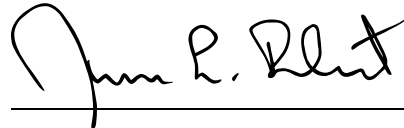
17 Accordingly, the court DENIES Mr. Rinthalukay's motion to continue the
18 sentencing hearing date in this matter (Dkt. # 15).¹

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22 ¹ Additionally, the court admonishes Mr. Rinthalukay's counsel to focus their arguments
on the facts at hand rather than on the opposing party.

1 Dated this 20th day of March, 2023.

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4 JAMES L. ROBART
5 United States District Judge
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